

## IN THE SUPREME COURT OF THE STATE OF MONTANA

No. DA 10-0060

ORIGINAL

STATE OF MONTANA,

Plaintiff and Appellee,

v.

BARRY K. HOLT,

Defendant and Appellant.

FILED

JUL 27 2010

*Ed Smith*  
CLERK OF THE SUPREME COURT  
STATE OF MONTANA**MOTION FOR EXTENSION OF TIME  
AND AFFIDAVIT IN SUPPORT**

COMES NOW, Eileen A. Larkin, counsel of record for Defendant and Appellant, and respectfully requests an extension of time until September 3, 2010, in which to prepare, file, and serve the Appellant's opening brief in the above-entitled matter. In support of this motion, undersigned counsel respectfully submits the following affidavit.

Respectfully submitted this 27<sup>th</sup> day of July, 2010.

OFFICE OF THE STATE PUBLIC DEFENDER  
Appellate Defender Office  
139 N. Last Chance Gulch  
P.O. Box 200145  
Helena, MT 59620-0145

By: *Eileen A. Larkin*  
Eileen A. Larkin  
Assistant Appellate Defender

STATE OF MONTANA            )  
  : ss.

County of Lewis and Clark    )

I, Eileen A. Larkin, being first duly sworn upon my oath, depose and state as follows:

1.     I am a licensed, practicing attorney in the State of Montana, and am currently employed by the Office of State Public Defender, Appellate Defender Office, as an Assistant Appellate Defender.

2.     In my capacity as Assistant Appellate Defender, I have been assigned to handle the above-entitled matter. The Appellant's two appeals, No. DA-10-0059 and DA-10-0060 were consolidated into DA-10-0060.

3.     The Appellant's brief in DA-10-0060 was initially due on June 4, 2010. It is currently due on August 4, 2010. This is the third request for an extension of time. I have started to read the file and transcripts in this matter and have begun legal research.

4.     I was out of the office from July 6 through July 14, 2010 for appellate advocacy training with the OAD staff and a pre-planned trip out of state.

5.     Due to my workload, additional time is needed to perform legal research and write the opening brief.

6.     Within the next few weeks, I have the following briefs due: (a) an opening brief in *State v. Bullplume*, DA- 10-0028, (b) a reply brief in *State v.*

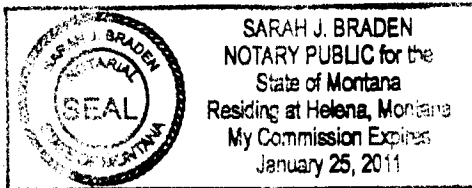
Larson, DA-09-0441, (c) a reply brief in *State v. Tirey*, DA-09-0522, and (d) an opening brief in *State v. Savage*, DA-10-0083.

6. I will work diligently to complete the matter in the time requested.
7. Opposing counsel has been contacted concerning this motion and does not object.
8. Further your affiant sayeth naught.

Eileen A. Larkin  
Eileen A. Larkin

SUBSCRIBED AND SWORN to before me this 27<sup>th</sup> day of

July, 2010.



Sarah J. Braden  
Sarah J. Braden

**CERTIFICATE OF SERVICE**

I hereby certify that I caused a true and accurate copy of the foregoing  
Motion for Extension of Time and Affidavit in Support to be mailed to:

STEVE BULLOCK  
Montana Attorney General  
MARK MATTIOLI  
Assistant Attorney General  
215 North Sanders  
P.O. Box 201401  
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Carbon County Attorney  
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BARRY K. HOLT 3002834  
Montana State Prison  
700 Conley Lake Drive  
Deer Lodge, MT 59722

DATED: \_\_\_\_\_

July 27, 2010 